

July 24, 1975

CONGRESSIONAL RECORD — SENATE

S 13515

Mr. FONG (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by them jointly to the bill (S. 598) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

AMENDMENT NO. 812

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. JACKSON. Mr. President, in behalf of Senator PASTORE and myself, I am submitting an amendment to S. 598, the Authorization for the Energy Research and Development Administration, which will prohibit the unsafe and unwarranted shipment of plutonium in civilian aircraft until an adequate and crash-safe container for such shipments is developed.

It is well known that plutonium is dispersed in a populated area is an enormously dangerous and toxic carcinogenic material. In addition, nuclear weapons experts have estimated that only a few kilograms of plutonium would be required for the construction of a nuclear explosive device, using designs and techniques which are available to literally thousands of persons both inside and outside the Government. Clearly plutonium is a material we should be very careful with.

In particular, we should not be shipping significant amounts of this material across the country over the homes of Americans in civilian aircraft unless certified crash-proof containers are used. Our amendment will prohibit unwarranted shipments of plutonium by air unless and until ERDA develops and tests such containers.

In the interim the amendment allows shipment of plutonium in civilian aircraft only for material which, first, is used for medical applications; second, must be shipped by air for reasons of national security, public health and safety or the requirements of emergency maintenance; or three, must be shipped by air to preserve the chemical, physical, or isotopic properties of the sample containing plutonium.

Mr. President, this amendment is designed to halt present practices which are highly questionable, to force action on a solution to the problem of air shipment of plutonium and to provide reasonable standards for the interim period until this solution—a safe, crash-proof container for the material—is developed.

WATERGATE REORGANIZATION AND REFORM ACT OF 1975—S. 495

AMENDMENT NO. 813

(Ordered to be printed and referred to the Committee on Government Operations.)

THE NEED FOR A DEPARTMENT OF JUSTICE DIVISION OF GOVERNMENT CRIMES

Mr. PERCY. Mr. President, on behalf of Senator BAKER and myself, I am today submitting an amendment to S. 495, the

Watergate Reorganization and Reform Act of 1975, which would create a Division of Government Crimes within the Department of Justice. The Assistant Attorney General responsible for the Government Crimes Division would be appointed by the President by and with the advice and consent of the Senate. He would be authorized to investigate and prosecute cases involving alleged conflicts of interest, election law violations, as well as violations of any law by any Government employee, whether elected or appointed. He would operate under the direct supervision of the Attorney General but this amendment provides that if he were removed or if any of his actions or positions were overruled, the Congress would have to be promptly given a precise explanation.

Section 101 of S. 495, of which Senator RIMMOFF and I are the cosponsors, provides for, among other things, the establishment of the independent Office of Public Attorney. Under this provision, three retired courts of appeals judges, chosen by the Chief Justice of the United States, would select and appoint the public attorney by and with the advice and consent of the Senate. The public attorney would operate completely independent of the Department of Justice and would have authority to investigate a wide-range of official corruption by members of Government officials.

After considerable deliberation and consultation with experts both in and out of the Government, Senator BAKER and I have concluded that it would be best to provide for more vigorous investigation and prosecution of all Federal employees who have violated the public trust, but that this can best be done within the framework of the present criminal justice system. Prosecution has traditionally been an exclusively executive function and it would seem wise to work within a system that, on the whole, has served this Nation extremely well for almost 200 years.

Both the proposal for the creation of an independent Office of Public Attorney in S. 495 and the legislation I am now introducing, which would establish a Division of Government Crimes within the Department of Justice, will be thoroughly considered in hearings before the Government Operations Committee on July 29, 30, and 31. Other aspects of S. 495, dealing with the creation of an Office of Congressional Legal Service, various financial disclosure requirements for certain Government employees, and expanding the coverage of the Hatch Act, will be fully analyzed by witnesses at hearings that will be held after the August recess of the Senate.

Mr. President, I ask unanimous consent that the text of the amendment, Senator BAKER and I are submitting be appended to my remarks at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 813

Beginning on page 1, line 7, strike out all through page 12, line 8, and insert in lieu thereof the following:

REORGANIZATION OF THE DEPARTMENT OF JUSTICE

SEC. 101. (a) Title 28, United States Code, is amended by adding after chapter 31 the following new chapter:

"Chapter 32—DIVISION OF GOVERNMENT CRIMES

"Sec.

"527. Establishment of Division of Government Crimes.

"528. Jurisdiction.

"529. Powers.

"530. Report of alleged impeachable offenses.

"§ 527. ESTABLISHMENT OF DIVISION OF GOVERNMENT CRIMES

"(a) (1) There is established within the Department of Justice the Division of Government Crimes which shall be under the direction of an Assistant Attorney General for Government Crimes (hereafter referred to as the 'Assistant Attorney General') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) There shall be in the Division of Government Crimes a Deputy Assistant Attorney General for Government Crimes (hereafter referred to as the 'Deputy Assistant Attorney General') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(3) During any absence, disability, or vacancy in the office of the Assistant Attorney General, the Deputy Assistant Attorney General shall serve as Acting Assistant Attorney General.

"(b) No individual shall be appointed Assistant Attorney General unless such individual—

"(1) is eligible to receive the security clearance required by section 529(a)(1) of this title;

"(2) is admitted to the practice of law before the highest court of a State or States or of the District of Columbia;

"(3) is, at the time of such appointment, a member in good standing of the bar of the Supreme Court of the United States.

"(c) The President shall report to the Congress in writing and with precision the cause for which any individual serving as Assistant Attorney General or Deputy Assistant Attorney General is removed.

"§ 528. JURISDICTION

"(a) The Assistant Attorney General shall have jurisdiction to exercise the powers specified in section 529 of this title (1) with respect to any matter as to which there is reasonable cause to believe involves the violation of any Federal law by any Government officer or employee, whether elected or appointed; (2) cases referred by the Attorney General because of actual or potential conflicts of interest; (3) criminal cases referred to him by the Federal Election Commission; and (4) allegations of violations by any person of Federal laws relating to campaigns and elections for elective office.

"(b) Any information, allegation or complaint received by any officer or employee of any branch of Government relating to any violation specified in subsection (a) of this section shall be expeditiously reported to the Assistant Attorney General.

"(c) The Attorney General subject to the provisions of section 529(c) of this title, or the Assistant Attorney General may elect to waive such jurisdiction with respect to any alleged violation. In such case, the Attorney General or the Assistant Attorney General shall refer any evidence of such violation to the appropriate law enforcement authority.

"§ 529. POWERS

"(a) Subject to the provisions of subsection (b) of this section, the Assistant Attorney General, in carrying out the provisions of this chapter, shall have the same power to act on behalf of the United States

S 13516

CONGRESSIONAL RECORD — SENATE

July 24, 1975

as the Attorney General. In exercising such power, he may conduct such investigations as may be necessary, represent the United States in any legal proceeding, and take such other actions as may be necessary. Nothing in this subsection shall be construed to authorize the Assistant Attorney General to exercise the power of the Attorney General under chapter 119 of title 18.

"(b) The Attorney General may overrule any action or position taken or proposed by the Assistant Attorney General and such decision to overrule shall be final. The Attorney General shall report promptly in writing to the Congress the reason for his decision to overrule any such action or position."

"§ 630. REPORT OF ALLEGED IMPEACHABLE OFFENSES

"(a) The Assistant Attorney General shall report to Congress with respect to any matter as to which he has reasonable cause to believe is evidence of an impeachable offense."

"(b) The analysis of part II of title 28, United States Code, is amended by adding after the item following chapter 31 the following new item:

"32. DIVISION OF GOVERNMENT CRIMES...527".

"(c) (1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(105) Assistant Attorney General for Government Crimes."

"(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraph:

"(137) Deputy Assistant Attorney General for Government Crimes."

NOTICE OF MOTION TO SUSPEND THE RULE

Mr. JOHNSTON submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 8121) Making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes the following amendment, namely:

AMENDMENT NO. 810

On page 68, line , insert the following: after line 10, insert a new section:

Sec. 607. Notwithstanding any provisions of this bill, strike Section 514 of the Foreign Assistance Act of 1961, as amended, and insert in lieu thereof the following:

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

"Sec. 514. No defense article in the inventory of the Department of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this Act or the Foreign Military Sales Act, or any subsequent corresponding legislation, and such transfer is charged against funds authorized under such legislation or against the limitations specified in such legislation, as appropriate, for the fiscal period in which such defense article is transferred."

NOTICE OF HEARINGS

Mr. CANNON. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a public hearing on the nomination of Da-

niel J. Boorstin, of Illinois and the District of Columbia, to be Librarian of Congress.

The hearing will commence on Wednesday, July 30, 1975, at 10 a.m., in the Caucus Room (room 318), Russell Senate Office Building. Members of Congress and others who wish to testify should make their request to the Rules Committee by calling Miss Peggy Parrish, assistant chief clerk, at 224-0281 or 224-6352. At least 35 copies of prepared statements should be delivered to Miss Parrish by the close of business on Monday, July 28.

NOTICE OF HEARINGS ON THE ABUSE AND MISUSE OF CONTROLLED DRUGS IN JUVENILE INSTITUTIONS

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee To Investigate Juvenile Delinquency, Committee on the Judiciary, will begin a series of hearings on drug abuse in juvenile institutions and the related topic of drugs used improperly to control and manage institutionalized juveniles.

Throughout the subcommittee's 4 years of investigation of the juvenile justice system, which lead to the passage of the Juvenile Justice and Delinquency Prevention Act of 1974—Public Law 93-415—we frequently uncovered problems involving the use of dangerous drugs to control or discipline youths in a broad spectrum of settings.

A recent study found that while only about 3 percent of the American population is retarded, as many as 46 percent of the children confined in juvenile detention centers, nearly half of whom are there for the commission and non-criminal acts, called status offenses, such as running away or truancy, are borderline retarded or more severely retarded. Naturally, one might expect, as the University of Miami's Mailmen Center for Child Development has recently confirmed, this leads to further personal deterioration, criminalization and often long-term custodial care in correctional, psychiatric, or mental institutions.

Last year the subcommittee initiated a special investigation of these distressing problems and in the coming months will continue with a comprehensive assessment of the practices which lead to the chemical straitjacketing of thousands of youngsters.

We are not concerned about those situations where these drugs are used appropriately after proper diagnosis, but solely with the use of such drugs without regard to psychiatric or medical diagnosis or the presence of approved indications which would justify such usage. We are concerned by our preliminary findings that unqualified medical staff and even nonmedical personnel may be dispensing and administering drugs in violation of the Controlled Substances Act. We are concerned about the quality of care available to institutionalized youngsters and shocked to learn that institutions throughout the country may be permitting the indiscriminate use of

dangerous drugs for the sole purpose of controlling the conduct of institutionalized juveniles and easing the management problems of understaffed institutions.

It is important to understand that indiscriminate use of phenothiazines presents severe hazards. There is growing evidence, for example, that these drugs impair learning ability, a result which few, if any, children, particularly those who are mentally retarded, can afford. Among the other side effects are Parkinsonism and tardive dyskinesia. While such side effects might be tolerable in the treatment of the severely psychotic child, they are not acceptable where used solely for control.

As you know, Mr. President, as chairman of the subcommittee I am obligated to assess whether the Controlled Substances Act, which regulates the use and abuse of controlled pharmaceutical products, as well as street drugs, is properly enforced and that violators are dealt with appropriately. In the course of our investigation we have learned of violations involving the phenothiazines in institutions for juveniles.

The other phase of our investigation, but clearly a related concern, involves an assessment of the extent to which drugs, legal and illegal—heroin, cocaine, amphetamines, tranquilizers, barbiturates, LSD—are readily available to addicts and abusers in detention centers, lockups, jails, and other correctional facilities on the Federal, State, and local levels. As ironic as it is many experts and others who have had experience with such institutions have found that in some institutions youngsters have never had a better source of supply for illegal drugs and, in fact, are better able to sustain their habits and abuse patterns in the institutions. We are extremely interested in learning more about this phenomenon, but especially more about the extent to which diversion of legitimate drugs on hand and available in juvenile institutions are diverted for illegal purposes and abuse.

This project, which we started last year, couples our earlier, and ongoing, work regarding the illegal and improper uses of controlled drugs with that of our concern about the quality of care available to children in trouble, particularly those who are institutionalized.

The hearing is scheduled to be held on Thursday, July 31, at 10 a.m., in room 2228, Dirksen Office Building. Witnesses invited to testify include representatives of the Mental Health Law Project, Washington, D.C.; Mental Patient Civil Liberties Project, Philadelphia, Pa.; Children's Defense Fund, Washington, D.C.; Mr. Kenneth Wooden, author and investigator specializing in problems of institutionalized children; and other interested parties.

Anyone interested in the subcommittee investigation or desiring to submit a statement for the Record should contact Mr. John M. Rector, staff director and chief counsel of the subcommittee, U.S. Senate, A504, Washington, D.C. 20510, 202 (224-2951).